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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,013	02/19/2004	Joseph Yaacoub Sahyoun	3607.05P2C3	2501

7590 02/24/2006  
Allston L. Jones  
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Suite 230  
425 Sherman Avenue  
Palo Alto, CA 94306

EXAMINER
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SAN MARTIN, EDGARDO

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/784,013

**Applicant(s)**

SAHYOUN, JOSEPH YAACOUB

**Examiner**

Edgardo San Martin

**Art Unit**

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

1. Claim 1 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. 10/753,278 and 10/778,777.

This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

2. Claim 1 of this application conflict with claim 1 of Application No. 10/753,278 and 10/778,777. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

***Specification***

3. The disclosure is objected to because of the following informalities:
- The current status of US Patent Application 10/058,868 is missing.
- Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goossens et al. (US 4,567,327) in view of House (US 5,883,967).

Goossens et al. teach a loudspeaker (Figs.1 and 3) comprising a frame (Figs. 1 and 3, Item 6) having an interior bottom surface with a side portion extending upward from, and surrounding the interior bottom surface, the side portion terminating in an exterior edge of a uniform first height above the interior bottom surface with the exterior edge defining an opening into the frame having a first predetermined size and shape, and a selected distance between the interior bottom surface and the exterior edge an inner surface of the side portion defines an interior mounting surface(Figs.1 and 3, Item 33) therearound; a cone (Figs.1 and 3, Item 8) having an outer edge (Figs.1 and 3, Item 10) and an inner edge (Figs.1 and 3, Item 9), the cone having a top surface and a bottom surface with the outer edge being substantially the same shape as, and a

Art Unit: 2837

second size that is smaller than the first size defined by the exterior edge of the frame, with the inner edge defined by centrally located circular hole of a first diameter through the cone; a suspension system (Figs.1 and 3, Item 7) having a suspension portion separated a predetermined distance from each other with the first suspension portion connected between the exterior edge of the frame and the outer edge of the cone; an audio motor (Figs.1 and 3, Item 4) including a magnet assembly, a thin walled bobbin (Figs.1 and 3, Item 2) and a voice coil (Figs.1 and 3, Item 3) wound near a bottom edge of the bobbin with the magnet assembly mounted to the bottom of the frame with a top of the magnet assembly below the interior mounting surface on the side of the frame; and the bobbin (Figs.1 and 3, Item 2) has an outer surface of a second diameter with the inner edge of the cone attached to the outer surface of the bobbin spaced apart from the voice coil (Figs.1 and 3, Item 3), the first diameter and the second being substantially equal one to the other; and a stiff diaphragm (Figs.1 and 3, Item 1) having an outer edge, a top surface and a bottom surface; the stiff diaphragm having a third size that is substantially the same or smaller than the second size and is substantially the same shape as the opening defined by the exterior edge of the frame; the outer edge of the diaphragm connected to the top surface of the cone; and the bottom surface of the stiff diaphragm having a centrally located connecting ring (Figs.1 and 3, Item 11) of a third diameter that is larger than second diameter of the bobbin with the connecting ring of the diaphragm connected to a top edge of the bobbin (Figs.1 and 3, Item 2) (Col.5, Line 53 – Col.9, Line 40). However, Goossens et al. fail to disclose a dual suspension system having first and second flexible suspension portions separated a

predetermined distance from each other with the first suspension portion connected between the exterior edge of the frame and the outer edge of the cone, and the second suspension portion connected between the interior mounting surface of the frame and the bottom of the cone spaced apart from the outer edge of the cone.

On the other hand, House teaches a dual suspension system having first (Fig.5, Item 330) and second (Fig.5, Item 331) flexible suspension portions separated a predetermined distance from each other with the first suspension portion (Fig.5, Item 330) connected between the exterior edge of the frame and the outer edge of a diaphragm (Fig.5, Item 312), and the second suspension portion connected between the interior mounting surface of the frame and the bottom of the diaphragm spaced apart from the outer edge of the diaphragm (Figs.5 and 6; Col.5, Line 54 – Col.7, Line 24).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the House dual suspension system with the Goossens et al. design because it would provide an increase in the reproduction signal amplitude and would permit the diaphragm to be driven in the same phase over its entire surface, providing a faithfully reproduction in a low frequency range and increasing the allowable input.

### ***Conclusion***

5. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

**Contact Information**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571)272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2800 ext.33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edgardo San Martín  
Primary Examiner  
Art Unit 2837  
Class 181  
February 21, 2006